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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,004	04/28/2005	Riccardo Ciullini	206,892	9482

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NEW YORK, NY 10017

EXAMINER

CHAMBERS, MICHAEL S

ART UNIT	PAPER NUMBER
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3711

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/527,004

Applicant(s)

CIULLINI, RICCARDO

Examiner

Mike Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the abstract should be on a clean page without any superfluous information. Correction is required. See MPEP § 608.01(b).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the counterbalancing weight in claim 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the concavity on the side in claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hinges/pins in claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the handle and belt in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hollow frame in claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the three poles in claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "suitable fixing tools" is vague and indefinite. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "the poles are leaning" and "basket project on the water above the border of the platform" are vague and indefinite. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "weight on its side opposite to the one on which bases the board" is vague and indefinite and unclear. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "concavity on the side corresponding to the board" is vague and indefinite and unclear. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

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Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "possibly the basket" is vague and indefinite. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "present and handle a belt capable of maintaining in folded position" and "possibly basket" are vague and indefinite and unclear. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "platform consists of a frame (i.e. a surface internally hollow) having various forms" is vague and indefinite and unclear. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "on the opposite sides of the frame: two on the side behind the board and one holding the inferior side of the board on the opposite side of the frame (or vice versa)" is vague and indefinite and unclear. One of ordinary skill in the art would not be able to determine the metes and bounds of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3,5-7 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Trumbull (2130820). Trumbull discloses a basketball basket fixed to a floating platform (fig 1).

As to claim 2 : Trumbull discloses a platform (38), two poles (40), a board (34) and a basket (22, fig 1,6).

As to claim 3 : Trumbull discloses padding (2b:33-36).

As to claim 5 : Trumbull discloses poles fixed by suitable fixing tools (wing-nuts-hand/pliers to tighten, fig 6).

As to claim 6 : Trumbull discloses a basket that projects above the water (fig 6).

As to claim 7 : Trumbull discloses a counterbalancing weight (fig 6, item 38).

As to claim 11 : Trumbull discloses a frame having a form (fig 6).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trumbull et al as applied above. Trumbull discloses the use of one fixing point (fig 6). It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any number of additional fixing/anchor points based on cost and design considerations in order to provide a more secure and safe attachment between the device and the pool boarder.

Also,

Claims 1-3,5-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinot (FR2740048). Robinot discloses a basketball basket fixed to a floating platform (fig 15).

As to claim 2 : Robinot discloses a platform , two poles , a board and a basket (fig 15).

As to claim 5 : Robinot discloses poles fixed by suitable fixing tools (fig 15).

As to claim 6 : Robinot discloses a basket that projects above the water (fig 6).

As to claim 7 : Robinot discloses a counterbalancing weight (fig 6, item 38).

As to claim 8 : The concavity of the platform is a matter of design choice. The specification provides no unexpected results in using this limitation. It would have been obvious to one of ordinary skill in the art to have selected an appropriate design based on cost and design considerations.

As to claim 11 : Robinot discloses a frame having a form (fig 6).

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinot et al as applied above and further in view of Trumbull . Trumbull discloses the use of padding. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the padding of Trumbull with the apparatus in order to provide a safer device and increase the satisfaction of the user.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinot et al as applied above. Robinot discloses the use of one fixing point (fig 15). It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any number of additional fixing/anchor points based on cost and design considerations in order to provide a more secure and safe attachment between the device and the pool boarder.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinot et al as applied above and further in view of Ziff (5149086) . Trumbull discloses the use of hinges (70). It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the hinges of Ziff with the apparatus in order to permit the device to be more easily stored or moved.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robinot et al as applied above and further in view of Official Notice . Official notice is taken that is well known in the art to employ handles and straps on articles. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed handles and straps in order to permit easy movement of the device and increase the satisfaction of the user.

Also,

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Zheng (6030300). Zheng discloses a basketball basket fixed to a floating platform (fig 4,6).

As to claim 2 : Zheng discloses a platform, two poles , a board and a basket (fig 4).

As to claim 3 : Zheng discloses rounded edges (fig 4).

As to claim 4 : Zheng discloses 2 fixing points (fig 4,6).

As to claim 5 : Zheng discloses poles fixed by suitable fixing tools (fig 2b,4,6).

As to claim 6 : Zheng discloses a basket that projects above the water (fig 4,6).

As to claim 7 : Zheng discloses weights (6:47-52).

As to claim 8 : Zheng discloses a concavity (fig 4,6).

As to claim 9 : Zheng discloses folding (fig 3).

As to claim 10 : Zheng discloses a handle and straps (fig 2b,3).

As to claim 11 : Zheng discloses a frame having a form (fig 6).

As to claim 12 : Zheng discloses a rectangular frame (fig 4).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

5149086*2130820*5480140*6676545*3743286*4
759545*D433471*3469844*4786053

Michael Chambers
Examiner
Art Unit 3711

February 27, 2007



EUGENE KIM
SUPERVISORY PATENT EXAMINER